

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 147 of 1996

with

CRIMINAL REVISION APPLICATION No 169 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE Sd/-

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1. Whether Reporters of Local Papers may be allowed
to see the judgements? No

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2. To be referred to the Reporter or not? No

3. Whether Their Lordships wish to see the fair copy
of the judgement? No

4. Whether this case involves a substantial question
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge?
No

BHARATKUMAR SHANTILAL PATEL

Versus

PARBATSINH @ BHUPATRAISINH

Appearance:

1. Criminal Revision Application No. 147 of 1996

MR BA SURTI for Petitioner

SERVED BY DS for Respondent No. 1

MR ST MEHTA, APP for Respondent No. 7

2. Criminal Revision Application No 169 of 1996

MR ST MEHTA, APP for Petitioner

MR BS PATEL for Respondents.

CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 20/09/96

ORAL JUDGEMENT

Looking to the fact that both applications have been directed against an order below Exh. 92 passed by the learned Addl. Sessions Judge, Bharuch in Sessions Case No. 44 of 1995 dated 29th March, 1996, with consent of the learned counsel they are heard together.

2. The short point which the above applications involve is with regard to permitting prosecution to examine a particular witness. In an application given by the accused below Exh. 92, it was submitted that prosecution witness Shri Kumud Kantilal Patel should not be examined as five prosecution witnesses were examined on the subject on which Shri Kumud Kantilal Patel was to be examined. It was further submitted by the accused in the said application that by examining witness Shri Kumud Kantilal Patel, the proceedings would be delayed.

3. Ultimately, after hearing the concerned advocates, the learned Addl. Sessions Judge, Bharuch had granted the application.

4. Being aggrieved by the above referred order dated 29th March, 1996 passed by the Addl. Sessions Judge, Bharuch, the above referred two applications have been filed. Criminal Revision Application No. 147 has been filed by the original complainant whereas Criminal Revision Application No. 169 of 1996 has been filed by the State.

5. Looking to the facts and circumstances of the case and as Criminal Revision Application No. 147 of 1996 has already been admitted, Rule is also issued in Criminal Revision Application No. 169 of 1996. Notice of Rule is waived in the application by learned advocate Shri B.S. Patel appearing for the respondents.

6. It is very clear that prosecution has a right to examine its witnesses and in peculiar facts and circumstances of the case, when Shri Kumud Kantilal Patel, son of the deceased, was to be examined, it appears that no prejudice would have been caused to the accused if the said witness would have been permitted to be examined.

7. In view of the peculiar circumstances of the case, these two applications are allowed. The order passed by the learned Addl. Sessions Judge, Bharuch dated 29th March, 1996 is quashed and set aside. It is hoped that the trial will be completed as soon as possible so that further delay may not be caused. Rule is made absolute in both applications. Ad-interim relief

granted earlier is vacated.

8. A copy of the writ be sent to the learned Addl. Sessions Judge, Bharuch forthwith. Respondents are permitted to take direct service of this order.

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